

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

[illegible]

CHAPTER 11

**HL BUILDERS, LLC
and
ANNA WILLIAMS,
Defendants.**

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the Court entered an Order Scheduling Trial on September 2, 2020 (ECF No. 36), which provided that any dispositive motions shall be filed no later than March 8, 2021. This case is set for trial on April 19, 2021.

JURISDICTION AND VENUE

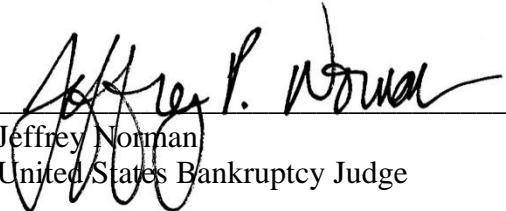
This Court has jurisdiction over this Motion to Dismiss pursuant to 28 U.S.C. §§ 1334(b), 157(b)(2)(A) (administration of the estate), and (H) (proceedings to determine, avoid, or recover fraudulent conveyances). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory predicate for relief is Fed. R. Civ. P. 12(b)(6), made applicable to this proceeding through Fed. R. Bankr. P. 7012 and Local Rule 7012.

LEGAL ANALYSIS

Ms. Williams was aware of the deadline to file dispositive motions in the Order Scheduling Trial, and was aware of the motion to compromise that led to the assignment of the claims to Spirit of Texas Bank, SSB. The Court notes the untimely nature of the instant motion. The defendant has waited until eleven days prior to trial to file this motion. Moreover, the Fifth Circuit has held that Rule 25(c) of the Federal Rules of Civil Procedure is designed to allow the action to continue unabated when an interest in the lawsuit changes hands,¹ and that it was erroneous to dismiss a claim for lack of standing due to a transfer of interest that occurred while litigation was pending.² Accordingly, the motion to dismiss must be denied.

THEREFORE, IT IS ORDERED that the Emergency Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) and Federal Rule of Bankruptcy Procedure 7012(b) (ECF No. 55) is denied.

SIGNED 04/09/2021



Jeffrey Norman
United States Bankruptcy Judge

¹ *Matter of Covington Grain Co., Inc.*, 638 F.2d 1362, 1364 (5th Cir. 1981).

² *Matter of Texas Gen.*, No. 93-2399, 1994 WL 24886, at *1 (5th Cir. Jan. 12, 1994).